

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
BOARD OF TRUSTEES OF THE LOCAL)
295/LOCAL 851 – I.B.T. EMPLOYER)
GROUP PENSION TRUST FUND and the)
BOARD OF TRUSTEES OF THE LOCAL)
295/LOCAL 851 – I.B.T. EMPLOYER) Case No. 08-525 (LAK) (FM)
GROUP WELFARE FUND,)
Plaintiffs,)
vs.)
EMPIRE FREIGHT SYSTEMS CORP.,)
Defendant.

AFFIDAVIT IN SUPPORT OF ATTORNEYS' FEE APPLICATION

STATE OF NEW YORK)
ss.:
COUNTY OF NEW YORK)

RACHEL PASTER, being duly sworn, deposes and says:

1. I am an attorney at law admitted to practice before this Court. I am associated with the law firm of Cary Kane LLP, attorneys for the plaintiffs. I make this affidavit in support of plaintiffs' request for attorneys' fees.

2. The attached chart describes the services rendered and is based on records maintained contemporaneously with the work performed, which records are provided herewith. In summary, there were 1.75 hours of attorney time at a rate of \$175.00 per hour, and 13.25 hours of attorney time at a rate of \$250.00 per hour for a total fee of \$3,618.75 incurred in the prosecution of this action, which is a reasonable fee and hourly rates for litigation of this type in this Court.

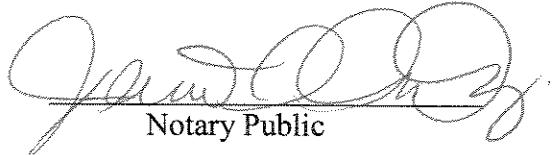
3. The legal services rendered in this action were reasonable, proper and necessary.

WHEREFORE, it is respectfully requested that attorneys' fees be awarded in the amount of \$3,618.75, pursuant to and as provided for in ERISA, Section 502(g)(1) and (2), 29 U.S.C. §1132(g)(1) and (2).



RACHEL S. PASTER

Sworn to before me this
20 day of March 2008



Notary Public

JANET I. CRUZ-DIAZ
Notary Public, State of New York
No. 01CR6018875
Qualified in Richmond County
Commission Expires January 19, 2011

Record Of Plaintiffs' Legal Fees in Local 295/851 Funds v. Empire Freight/ Case No. 08-525 (LAK) (FM)

<u>Date</u>	<u>Attorney or paralegal</u>	<u>Description Of Work</u>	<u>Time (Hours)</u>	<u>Rate Per Hour</u>	<u>Fee</u>
31-Jan-07	L. Cary (partner)	Reviewing settlement papers. Consult with RP	0.50	175	87.50
14-Mar-07	L. Cary (partner)	Telephone conference with L. Kellner	0.25	175	43.75
327-Mar-07	R. Paster (attorney)	Review correspondence from client. Review and revise settlement agreement.	0.50	175	87.50
228-Mar-07	R. Paster (attorney)	Draft correspondence to Frank DeJohn, president of Empire, re: settlement agreement; review and revise settlement agreement.	0.50	175	87.50
2-Aug-07	J. Parkhurst (attorney)	Review correspondence from fund office, telephone call with L. Kellner, conference with LC.	0.50	250	125.00
3-Aug-07	J. Parkhurst (attorney)	Telephone call with L. Kellner, review correspondence from L. Kellner	0.25	250	62.50
8-Aug-07	J. Parkhurst (attorney)	Review correspondence from L. Kellner, draft e-mail to LC.	0.25	250	62.50
9-Aug-07	J. Parkhurst (attorney)	Telephone call with L. Kellner, review settlement agreement	0.25	250	62.50
3-Oct-07	J. Parkhurst (attorney)	Review correspondence from Fund office, review file.	0.25	250	62.50
16-Oct-07	J. Parkhurst (attorney)	Telephone call with fund office, review file.	0.25	250	62.50
17-Oct-07	R. Paster (attorney)	Reviewing documents in file. Draft complaint. Draft complaint. Draft correspondence to L. Kellner re: same.	1.00	250	250.00
23-Oct-07	R. Paster (attorney)	Draft complaint. Draft correspondence to L. Kellner re: same.	0.50	250	125.00
27-Jan-08	R. Paster (attorney)	Considering issues re: collection of delinquency. Email to N. Savasta re: same. Confer with L.. Kellner re: same.	0.25	250	62.50
27-Feb-08	R. Paster (attorney)	Review correspondence from client. Telephone conference with L. Kellner re: same. Draft Complaint, Summons and Civil Cover Sheet. Prepare same for service and filing.	2.50	250	625.00
28-Feb-07	R. Paster (attorney)	Review case file and court filing. Email correspondence with L. Kellner re: amounts paid by Empire.	0.25	250	62.50
Case 1:08-cv-00525-LAK	R. Paster (attorney)	Draft default judgment paper. Email correspondence with L. Kellner re: interest rate.	4.00	250	1,000.00
3-Mar-08	R. Paster (attorney)	Review correspondence from L. Kellner re: interest owed. Draft default judgment papers.	3.00	250	750.00
		TOTAL	15.00		\$3,618.75

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Slip Listing

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Selection Criteria

Slip Classification	Open
Matt.Selection	Include: Empire; Empire

Rate Info - identifies rate source and level

Slip ID Dates and Time Posting Status Description	Timekeeper Activity Client Matter	Units DNB Time Variance	Rate Info Bill Status	Slip Value
<u>Timekeeper: Cary</u>				
15827 1/31/2007 Billed	TIME G:11260 Review of settlement papers; consult with RP.	Cary Legal Services Local 295/851-PF COL Empire	0.25 0.00 0.00	175.00 T@15
15828 1/31/2007 Billed	TIME G:11262 Review of settlement papers; consult with RP.	Cary Legal Services Local 295/851-WF COL Empire	0.25 0.00 0.00	175.00 C@1
<hr/>				
Total: 1/31/2007				
		Billable Unbillable Total	0.50 0.00 0.50	87.50 0.00 87.50
<hr/>				
16762 3/14/2007 Billed	TIME G:11363 Telephone with LK.	Cary Legal Services Local 295/851-PF COL Empire	0.25 0.00 0.00	175.00 C@1
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Total: 3/14/2007				
		Billable Unbillable Total	0.25 0.00 0.25	43.75 0.00 43.75
<hr/>				
Total: Cary				
		Billable Unbillable Total	0.75 0.00 0.75	131.25 0.00 131.25

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Slip ID Dates and Time Posting Status Description	Timekeeper Activity Client Matter	Units DNB Time	Rate Rate Info Bill Status	Slip Value
Timekeeper: Hewitt		Variance		
24785 1/18/2008 Billed	Hewitt Legal Services G:12032 Assembled Summons and Complaint to be filed in Empire the Southern District Court	0.75 0.00 2/1/2008 Local 295/851-WF COL 0.00	125.00 C@2	93.75
Total: 1/18/2008				
	Billable Unbillable Total	0.75 0.00 0.75		93.75 0.00 93.75
Total: Hewitt				
	Billable Unbillable Total	0.75 0.00 0.75		93.75 0.00 93.75

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Slip ID Dates and Time Posting Status Description	Timekeeper Activity Client Matter	Units DNB Time Variance	Rate Rate Info Bill Status	Slip Value
<u>Timekeeper: Parkhurst</u>				
20609 8/2/2007 Billed G:11681	Parkhurst Legal Services 9/4/2007 Local 295/851-PF COL Review correspondence from fund office, telephone Empire call with L. Kellner, conference with LC.	0.25 0.00 0.00	250.00 C@1	62.50
20610 8/2/2007 Billed G:11683	Parkhurst Legal Services 9/4/2007 Local 295/851-WF COL Review correspondence from fund office, telephone Empire call with L. Kellner, conference with LC.	0.25 0.00 0.00	250.00 C@1	62.50
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Total: 8/2/2007				
	Billable Unbillable Total	0.50 0.00 0.50		125.00 0.00 125.00
20643 8/3/2007 Billed G:11681	Parkhurst Legal Services 9/4/2007 Local 295/851-PF COL Telephone call with L. Kellner, review correspondence from L. Kellner.	0.25 0.00 0.00	250.00 C@1	62.50
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Total: 8/3/2007				
	Billable Unbillable Total	0.25 0.00 0.25		62.50 0.00 62.50
20690 8/8/2007 Billed G:11683	Parkhurst Legal Services 9/4/2007 Local 295/851-WF COL Review correspondence from L. Kellner, draft e-mail to LC.	0.25 0.00 0.00	250.00 C@1	62.50
<hr/>				
Total: 8/8/2007				
	Billable Unbillable Total	0.25 0.00 0.25		62.50 0.00 62.50
20717 8/9/2007 Billed G:11683	Parkhurst Legal Services 9/4/2007 Local 295/851-WF COL Telephone call with L. Kellner, review settlement agreement.	0.25 0.00 0.00	250.00 C@1	62.50

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Slip ID Dates and Time Posting Status Description	Timekeeper Activity Client Matter	Units DNB Time Variance	Rate Rate Info Bill Status	Slip Value
Total: 8/9/2007				
	Billable	0.25		62.50
	Unbillable	0.00		0.00
	Total	0.25		62.50
22102 10/3/2007 Billed	TIME G:11815 Review correspondence from fund office, review file.Empire	Parkhurst Legal Services Local 295/851-PF COL 0.00	0.25 0.00 C@1	250.00 62.50
Total: 10/3/2007				
	Billable	0.25		62.50
	Unbillable	0.00		0.00
	Total	0.25		62.50
22231 10/5/2007 Billed	TIME G:11817 Telephone call with fund office, review file.	Parkhurst Legal Services Local 295/851-WF COL Empire 0.00	0.25 0.00 C@1	250.00 62.50
Total: 10/5/2007				
	Billable	0.25		62.50
	Unbillable	0.00		0.00
	Total	0.25		62.50
Total: Parkhurst				
	Billable	1.75		437.50
	Unbillable	0.00		0.00
	Total	1.75		437.50

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Slip ID Dates and Time Posting Status Description	Timekeeper Activity Client Matter	Units DNB Time Variance	Rate Rate Info Bill Status	Slip Value
<u>Timekeeper: Paster</u>				
17095 3/27/2007 Billed G:11363 Review correspondence from client. Review and revise Settlement Agreement.	TIME Paster Legal Services Local 295/851-PF COL Empire	0.50 0.00 0.00	175.00 C@1	87.50
Total: 3/27/2007		Billable Unbillable Total	0.50 0.00 0.50	87.50 0.00 87.50
17146 3/28/2007 Billed G:11363 Review and revise Settlement Agreement	TIME Paster Legal Services Local 295/851-PF COL Empire	0.25 0.00 0.00	175.00 C@1	43.75
17224 3/28/2007 Billed G:11365 Draft correspondence to Frank DeJohn, president of Empire Freight, re Settlement Agreement.	TIME Paster Legal Services Local 295/851-WF COL Empire	0.25 0.00 0.00	175.00 C@1	43.75
Total: 3/28/2007		Billable Unbillable Total	0.50 0.00 0.50	87.50 0.00 87.50
22452 10/16/2007 Billed G:11815 Reviewing documents in file. Draft Complaint.	TIME Paster Legal Services Local 295/851-PF COL Empire	0.50 0.00 0.00	250.00 C@1	125.00
22451 10/16/2007 Billed G:11817 Reviewing documents in file. Draft Complaint.	TIME Paster Legal Services Local 295/851-WF COL Empire	0.50 0.00 0.00	250.00 C@1	125.00
Total: 10/16/2007		Billable Unbillable Total	1.00 0.00 1.00	250.00 0.00 250.00

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Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client		Bill Status	
Description		Matter	Variance		
22463	TIME 10/17/2007 Billed	Paster Legal Services Local 295/851-WF COL Draft complaint. Draft correspondence to L. Kellner Empire re: same.	0.25 0.00 0.00	250.00 C@1	62.50
22464	TIME 10/17/2007 Billed	Paster Legal Services Local 295/851-PF COL Draft complaint. Draft correspondence to L. Kellner Empire re: same.	0.25 0.00 0.00	250.00 C@1	62.50
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Total: 10/17/2007					
		Billable	0.50		125.00
		Unbillable	0.00		0.00
		Total	0.50		125.00
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22659	TIME 10/23/2007 Billed	Paster Legal Services Local 295/851-WF COL Considering issues re: collection of delinquency. Email to N. Savasta re: same. Confer with L. Kellner re: same.	0.25 0.00 0.00	250.00 C@1	62.50
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Total: 10/23/2007					
		Billable	0.25		62.50
		Unbillable	0.00		0.00
		Total	0.25		62.50
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24781	TIME 1/17/2008 Billed	Paster Legal Services Local 295/851-PF COL Review correspondence from client. Telephone conference with L. Kellner re: same. Draft Complaint, Summons, and Civil Cover sheet. Prepare same for service and filing.	1.25 0.00 0.00	250.00 C@1	312.50
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24782	TIME 1/17/2008 Billed	Paster Legal Services Local 295/851-WF COL Review correspondence from client. Telephone conference with L. Kellner re: same. Draft Complaint, Summons, and Civil Cover sheet. Prepare same for service and filing.	1.25 0.00 0.00	250.00 C@1	312.50

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Slip ID Dates and Time Posting Status Description	Timekeeper Activity Client Matter	Units DNB Time Variance	Rate Rate Info Bill Status	Slip Value
Total: 1/17/2008				
	Billable	2.50		625.00
	Unbillable	0.00		0.00
	Total	2.50		625.00
24789 1/18/2008 Billed Index No. Fee	EXP G:12030	Paster Filing Fee 2/1/2008 Local 295/851-PF COL Empire	1	175.00
24790 1/18/2008 Billed Index No. Fee	EXP G:12032	Paster Filing Fee 2/1/2008 Local 295/851-WF COL Empire	1	175.00
Total: 1/18/2008				
	Billable	0.00		350.00
	Unbillable	0.00		0.00
	Total	0.00		350.00
25838 2/1/2008 Billed Service Fee	EXP G:12102	Paster Service Fee 3/1/2008 Local 295/851-PF COL Empire	1	96.00
25840 2/1/2008 Billed Service Fee	EXP G:12104	Paster Service Fee 3/1/2008 Local 295/851-WF COL Empire	1	96.00
Total: 2/1/2008				
	Billable	0.00		192.00
	Unbillable	0.00		0.00
	Total	0.00		192.00
25788 2/27/2008 Billed	TIME G:12102	Paster Legal Services 3/1/2008 Local 295/851-PF COL Review case file and court filing. Email correspondence with L. Kellner re: amounts paid by Empire.	0.25 0.00 0.00	250.00 C@1 62.50
Total: 2/27/2008		Billable	0.25	62.50

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Slip ID Dates and Time Posting Status Description	Timekeeper Activity Client Matter	Units DNB Time Variance	Rate Rate Info Bill Status	Slip Value
	Unbillable	0.00		0.00
	Total	0.25		62.50
25789 2/28/2008 Billed	TIME G:12102 Draft default judgment papers. Email correspondence with L. Kellner re: interest rate.	Paster Legal Services Local 295/851-PF COL Empire	2.50 0.00 0.00	250.00 C@1
25790 2/28/2008 Billed	TIME G:12104 Draft default judgment papers. Email correspondence with L. Kellner re: interest rate.	Paster Legal Services Local 295/851-WF COL Empire	2.50 0.00 0.00	250.00 C@1
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Total: 2/28/2008				
	Billable	5.00		1250.00
	Unbillable	0.00		0.00
	Total	5.00		1250.00
26180 3/13/2008 WIP	TIME Local 295/851-PF COL Review correspondence from L. Kellner re: interest owed. Draft default judgment papers.	Paster Legal Services Local 295/851-PF COL Empire	1.50 0.00 0.00	250.00 C@1
26181 3/13/2008 WIP	TIME Local 295/851-WF COL Review correspondence from L. Kellner re: interest owed. Draft default judgment papers.	Paster Legal Services Local 295/851-WF COL Empire	1.50 0.00 0.00	250.00 C@1
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Total: 3/13/2008				
	Billable	3.00		750.00
	Unbillable	0.00		0.00
	Total	3.00		750.00
<hr/>				
Total: Paster				
	Billable	13.50		3842.00
	Unbillable	0.00		0.00
	Total	13.50		3842.00
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Grand Total				
	Billable	16.75		4504.50

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Slip ID	Timekeeper	Units	Rate	Slip Value
Dates and Time	Activity	DNB Time	Rate Info	
Posting Status	Client		Bill Status	
Description	Matter	Variance		
	Unbillable	0.00		0.00
	Total	16.75		4504.50